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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Mahesh Rajagopalan

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EXAMINER

ADDY, THUAN KNOWLIN

ART UNIT

PAPER NUMBER

2614

NOTIFICATION DATE

DELIVERY MODE

10/31/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/720,633	Applicant(s) RAJAGOPALAN ET AL.	
	Examiner THJUAN K. ADDY	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-129 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-129 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/10/2008; 07/21/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on June 27, 2008 has been entered. Claims 42, 44, 45, 92, 93, 95, 96, 105, 108, 111, and 114 have been amended. No claims have been cancelled. No claims have been added. Claims 1-129 are still pending in this application, with claims 1, 16, 17, 40-42, 52, 67, 68, 91-93, 103-114, and 129 being independent.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 106, 107, and 108 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
3. Applicant's specification, (See pg. 51), identifies the computer-readable media as "a carrier wave received from a network such as the Internet." When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, stored in a computer-readable medium, in a computer, or on an electromagnetic carrier signal does not make it statutory.

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4. Furthermore, claims 106, 107, and 108 recite “A computer-readable medium containing instructions...”. Claims 106, 107, and 108 should recite, for example, “A computer-readable medium **encoded with** instructions **capable of being executed by a computer...**”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-129 are rejected under 35 U.S.C. 102(e) as being anticipated by

Wittenkamp (US Patent Application, Pub. No.: US 2002/0082028 A1).

6. In regards to claims 1, 16, 17, 40, 41, 42, 52, 67, 68, 91, 92, 93, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, and 129, Wittenkamp discloses a method, apparatus, computer-readable medium, and system for routing a communication to a preferred device, comprising: intercepting (e.g. parking/queuing) a communication (e.g., call) from a calling party (See Fig. 1 and caller 20) to a device associated with a particular user (e.g., user/called party); receiving information (e.g., identity of the called party, information concerning the person calling, and/or the nature of the call) pertaining to the communication; retrieving data (e.g., call-routing preferences) corresponding to

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the user using the received information; determining a preferred device (See Fig. 1, telephone device 32a-32n or wireless device 50) of the user based on the retrieved data; ascertaining whether the preferred device of the user requires a new mode of delivery (for example, a determination is made as to whether or not the call should be routed to a wireless phone, a landline phone, or a PC terminal); and routing the communication to the preferred device of the user based on the ascertaining (See pg. 2, paragraph [0024]; pg. 3, paragraph [0027]; and pg. 3, paragraph [0029]).

7. In regards to claims 2, 19, 44, 46, 47, 53, 70, 95, 97, and 98, Wittenkamp discloses the method and apparatus, wherein retrieving data comprises: accessing a database for call preference information (e.g., stored or storable call-routing preferences) corresponding to the user (See pg. 3, paragraph [0027] and pg. 3, paragraph [0029]).

8. In regards to claims 3, 20, 54, and 71, Wittenkamp discloses the method and apparatus, wherein the call preference information comprises an indication of a device to which communications should be forwarded (See pg. 3, paragraph [0029]).

9. In regards to claims 4, 21, 45, 55, 72, and 96, Wittenkamp discloses the method and apparatus, wherein determining a preferred device comprises: specifying the preferred device to be a device indicated in the call preference information (See pg. 3, paragraph [0029]).

10. In regards to claims 5, 22, 56, 73, 121, and 122, Wittenkamp discloses the method and apparatus, wherein determining a preferred device comprises: specifying the preferred device to be a predetermined default device (for example, the user may

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predetermine that calls should automatically be routed to wireless device 50, without him or her having to select a device or to voice mail, See Fig. 3 Step 116) (See pg. 3, paragraph [0029] and pg. 3, paragraph [0035]).

11. In regards to claims 6, 23, 57, 74, 115, 116, 117, 118, 119, and 120, Wittenkamp discloses the method and apparatus, wherein determining a preferred device comprises: specifying the preferred device to be a device last used by the user (e.g., which may be based on the called party's current location and availability) (See pg. 4, paragraph [0039]).

12. In regards to claims 7, 24, 58, and 75, Wittenkamp discloses the method and apparatus, wherein determining a preferred device comprises: specifying the preferred device based on information reflecting a time period during which a particular device is the preferred device (See pg. 2, paragraph [0025] and pg. 4, paragraph [0039]).

13. In regards to claims 8, 33, 59, and 84, Wittenkamp discloses the method and apparatus, comprising: determining whether the user is associated with a do not disturb (e.g., decline or no accept message) mode (See pg. 3, paragraph [0035]).

14. In regards to claims 9, 34, 60, and 85, Wittenkamp discloses the method, comprising: routing the communication to voice mail (See Fig. 3, Step 116) based on a determination that the user is associated with a do not disturb mode (See pg. 3, paragraph [0035]).

15. In regards to claims 10, 35, 61, and 86, Wittenkamp discloses the method and apparatus, wherein routing comprises: forwarding the communication to the preferred device without changing a type of incoming data associated with the communication

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when the preferred device does not require a new mode of delivery (for example, the call may be routed from one PC terminal to another PC terminal) (See pg. 3, paragraph [0030]).

16. In regards to claims 11, 36, 62, and 87, Wittenkamp discloses the method and apparatus, wherein routing comprises: changing a type of incoming data associated with the communication based on a determination that the preferred device requires a new mode of delivery (for example, a determination is made as to whether or not the call should be routed to a wireless phone, a landline phone, or a PC terminal); and forwarding the communication to the preferred device after changing the type of incoming data (See pg. 2, paragraph [0024]; pg. 3, paragraph [0027]; and pg. 3, paragraph [0029]).

17. In regards to claims 12, 37, 63, and 88, Wittenkamp discloses the method and apparatus, wherein changing comprises: sending a request for a new type of incoming data to a device associated with the calling party; and receiving new incoming data with a data type matching the new type (See pg. 2, paragraph [0024]; pg. 3, paragraph [0027]; and pg. 3, paragraph [0029]).

18. In regards to claims 13, 38, 64, and 89, Wittenkamp discloses the method and apparatus, comprising: providing the device associated with the calling party with a graphical interface (See Fig. 1 and PC monitor 40) for use in entering the new incoming data (See pg. 3, paragraph [0027]).

19. In regards to claims 14, 39, 65, and 90, Wittenkamp discloses the method and apparatus, wherein changing comprises: automatically converting incoming data

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associated with the communication to new incoming data with a new data type (See pg. 2, paragraph [0024]; pg. 3, paragraph [0027]; and pg. 3, paragraph [0029]).

20. In regards to claims 15, 32, 66, and 83, Wlittenkamp discloses the method and apparatus, wherein ascertaining comprises: determining whether incoming data associated with the communication has a data type that is accepted by the preferred device (See pg. 2, paragraph [0024]; pg. 3, paragraph [0027]; and pg. 3, paragraph [0029]).

21. In regards to claims 18 and 69, Wittenkamp discloses the method and apparatus, wherein the action comprises clicking on a hyperlink (See Fig. 2 and pg. 3, paragraph [0027]).

22. In regards to claims 43 and 94, Wlittenkamp discloses the method and apparatus, comprising: providing the state (e.g., accepting calls or not accepting calls) (See pg. 3, paragraph [0027] and pg. 3, paragraph [0035]).

23. In regards to claims 50 and 101, Wittenkamp discloses the method and apparatus, comprising: updating an address book to reflect current state and preferred device information (See Fig. 2 and pg. 3, paragraph [0027])

24. In regards to claims 51 and 102, Wittenkamp discloses the method and apparatus, comprising: updating address books of customers having an entry corresponding to the user to reflect current state and preferred device information (See Fig. 2 and pg. 3, paragraph [0027]).

25. In regards to claims 123 and 124, Wittenkamp discloses the method and apparatus, wherein intercepting a communication comprises: detecting the

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communication from the calling party; and intercepting (e.g., parking/queuing) the communication upon detecting an intercept trigger associated with the communication (See pg. 2, paragraph [0024] and pg. 3, paragraph [0027]).

26. In regards to claims 125, 126, 127, and 128, Wittenkamp discloses the method and apparatus, wherein sending a request comprises: presenting an appropriate overlay to communicate with the preferred device of the user (See pg. 2, paragraph [0024]; pg. 3, paragraph [0027]; and pg. 3, paragraph [0029]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

27. Claims 25-31, 48, 49, 76-82, 99, and 100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittenkamp (US Patent Application, Pub. No.: US 2002/0082028 A1), in view of Frey et al. (US 6,535,596).

28. In regards to claims 25, 26, 27, 28, 30, 76, 77, 78, 79, and 81, Wittenkamp discloses all of claims 25, 26, 27, 28, 76, 77, 78, and 79 limitations, except the method and apparatus, comprising: retrieving data corresponding to the calling party; and determining a preferred device of the calling party based on the retrieved data. Frey, however, does disclose retrieving data corresponding to the calling party; and determining a preferred device of the calling party based on the retrieved data (See

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Abstract and col. 14 lines 13-26). Therefore, it would have been obvious for one of ordinary skill in the art at the time of the invention to incorporate these features within the method, as a way of processing calls based on the calling party's profile information or preferences.

29. In regards to claims 29 and 80, Wittenkamp discloses all of claims 29 and 80 limitations, except the method and apparatus, wherein determining a preferred device of the calling party comprises: specifying the preferred device of the calling party to be a predetermined default device. Frey, however, does disclose specifying the preferred device of the calling party to be a predetermined default device (See col. 10 lines 20-40).

30. In regards to claims 31 and 82, Wittenkamp discloses all of claims 31 and 82 limitations, except the method and apparatus, wherein determining a preferred device of the calling party comprises: specifying the preferred device of the calling party based on information reflecting a time period during which a particular device is the preferred device of the calling party. Frey, however, does disclose specifying the preferred device of the calling party based on information reflecting a time period during which a particular device is the preferred device of the calling party (See col. 11 lines 1-12).

31. In regards to claims 48, 49, 99, and 100, Wittenkamp discloses all of claims 48, 49, 99, and 100 limitations, except the method, comprising: displaying an indicator reflective of the state on a device associated with an initiating party. Frey, however, does disclose displaying an indicator reflective of the state on a device associated with an initiating party (See Abstract and col. 14 lines 13-26).

Response to Arguments

32. Applicant's arguments filed 06/27/2008 have been fully considered but they are not persuasive.

33. Applicants argue that each of claims 106-108 recites a computer-readable medium that contains functional "instructions", and that the instructions recited in claims 106-108 clearly do not constitute "music, literary works... a compilation or mere arrangement of data," or any other type of nonfunctional descriptive material, but rather, the instructions recited in claims 106-108 have the functionality that is recited in these claims. Applicants state that Wittenkamp fails to disclose a method comprising, "intercepting a communication from a calling party to a device associated with a particular user," as recited in claim 1. Applicants further argue that Wittenkamp fails to disclose a method comprising, "initiating a first call to a device of the calling party" and "initiating a second call to the preferred device of the user," as recited in claim 17. Applicants further state that Wittenkamp fails to disclose a method comprising, "after the state associated with the user has been stored, receiving a request for information pertaining to the user [and] retrieving the stored state associated with the user," as recited in amended claim 42. Applicants argue that Wittenkamp fails to disclose a method comprising, "presenting the calling party with an appropriate overlay to communicate with the preferred device of the user based on the ascertaining," as recited in claim 129.

34. In response to Applicants' argument that each of claims 106-108 recites a computer-readable medium that contains functional "instructions", and that the

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instructions recited in claims 106-108 clearly do not constitute "music, literary works... a compilation or mere arrangement of data," or any other type of nonfunctional descriptive material, but rather, the instructions recited in claims 106-108 have the functionality that is recited in these claims, Examiner respectfully disagrees. Applicants indicate that MPEP 2106.01 provides examples of "nonfunctional descriptive material":

"Nonfunctional descriptive material" includes but is not limited to music, literary works, and a compilation or mere arrangement of data." Therefore, as indicated, "nonfunctional descriptive material" consists of music, literary works, and a compilation or mere arrangement of data, but is not limited to those particular things. For instance, when nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic **carrier signal**, it **is not statutory** since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, stored in a computer-readable medium, in a computer, or on an electromagnetic **carrier signal** does not make it statutory.

35. In response to Applicants' argument that Wittenkamp fails to disclose a method comprising, "intercepting a communication from a calling party to a device associated with a particular user," as recited in claim 1, Examiner respectfully disagrees.

Wittenkamp does disclose a method comprising, intercepting (e.g. parking/queuing) a communication (e.g., call) from a calling party (See Fig. 1 and caller 20) to a device associated with a particular user (e.g., user/called party) (for example, when a caller calls a user at a particular telephone number, in which the user does not desire to be connected at or is not located at, the call is parked/queued until another device is

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indicated where the routing of the call is desired) (See pg. 3, paragraph [0027] and pg. 3, paragraph [0029]).

36. In response to Applicants' argument that Wittenkamp fails to disclose a method comprising, "initiating a first call to a device of the calling party" and "initiating a second call to the preferred device of the user," as recited in claim 17, Examiner respectfully disagrees. Wittenkamp does disclose a method comprising, initiating a first call to a device (e.g., indicating to the caller that the device attempting to be reached is not available) of the calling party" and "initiating a second call to the preferred device (e.g., location where the call is desired) of the user (See pg. 3, paragraph [0027] and pg. 3, paragraph [0029]).

37. In response to Applicants' argument that Wittenkamp fails to disclose a method comprising, "after the state associated with the user has been stored, receiving a request for information pertaining to the user [and] retrieving the stored state associated with the user," as recited in amended claim 42, Examiner respectfully disagrees.

Wittekamp does disclose a method comprising, after the state associated with the user has been stored (e.g., call-routing preferences), receiving a request for information pertaining to the user [and] retrieving the stored state associated with the user (See pg. 3, paragraph [0027]).

38. In response to Applicants' argument that Wittenkamp fails to disclose a method comprising, "presenting the calling party with an appropriate overlay to communicate with the preferred device of the user based on the ascertaining," as recited in claim 129, Examiner respectfully disagrees. Wittenkamp does disclose a method comprising,

presenting the calling party with an appropriate overlay to communicate with the preferred device of the user based on the ascertaining (See pg. 3, paragraph [0027] and pg. 3, paragraph [0029]).

Conclusion

39. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

40. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

41. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THJUAN K. ADDY whose telephone number is (571)272-7486. The examiner can normally be reached on Mon-Fri 8:30-5:00pm.

42. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571) 272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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43. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thjuan K. Addy/
Primary Examiner, Art Unit 2614